IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 2502 of 2007(W)

OS.270/1965 of MUNSIFF COURT, KOTTARAKKARA

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PETITIONER:

PATHUMMAL BEEVI SUBARATHU BEEVI,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL VILLAGE, KOTTARAKKARA.

BY ADV. SRI.D.JAYACHANDRAN

RESPONDENTS:

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1. JAFFARKHAN, S/O.SAYU RAWTHER,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

2. NABEENA JAFFARKHAN,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

3. BAHADOOR, S/O.JAFFERKHAN,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

4. BAHARDOORSHA, S/O.JAFFERKHAN,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

5. BEENA THANKAMMA, D/O.NABEENA,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

6. RANITHA, D/O.NABEENA,
PATHIRIYOTTU CHARUVILA PUTHEN VEEDU,
KALAVAYAL MURI, VELINALLOR VILLAGE,
KOTTARAKARA.

7. UDUMANKANNU RAWTHER BADARUDEEN,
KOCHAMMANATHU VEEDU, MIYYANA MURI,
POOYAPPALLY VILLAGE.

8. MOHAMMED UMMAL, W/O.
UDUMANKANNU RAWTHER,
KOCHAMMANATHU VEEDU, MIYYANA MURI,
POOYAPPALLY VILLAGE.

9. A.AMEERKHAN,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

10. A.SHAMSUDEEN,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

11. A.UMMERKHAN,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

12. K.JAMEELA BEEVI,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

13. A.ANSAR BEEVI,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

14. A.RASIYAMMA,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

15. A.RAJAN,
CHARUVILA PUTHEN VEEDU, PATHIRIYOTTU,
KOZHIKKODU MURI, VELIYAM VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.2502 OF 2007

DATED THIS THE 22nd DAY OF JANUARY, 2007

JUDGMENT

Petitioner is third defendant in O.S.270/1965 on the file of Munsiff Court, Kottarakkara. Respondents are plaintiffs and other defendants. A final decree was passed originally on 14.3.1985. Petitioner executed the final decree by filing E.P.79/1985 and got the property allotted to him, separated. The final decree was subsequently set aside as per order dated 4.11.1992. Thereafter, another Commission was appointed and on the basis of the report another final decree was passed. Petitioner filed I.A.327/06, an application to review the final decree contending that when the report originally submitted by Commissioner was not set aside, Court is not competent to appoint another Commission or accept the report and pass a final decree and therefore subsequent final decree is illegal and is to be reviewed. Under Ext.P6 order, learned Munsiff dismissed the application. It is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned Counsel appearing for petitioner was heard.

3. Though learned Counsel appearing for petitioner

vehemently argued that learned Munisff did not properly consider the review application and therefore Ext.P6 order is to be quashed. On the facts and circumstances of the case, I do not find any infirmity in Ext.P6 order. When a final decree is passed, after the original final decree was set aside ,if petitioner is aggrieved by the revised final decree, remedy of petitioner is to file an appeal as against the final decree. I do not find any reason to interfere with Ext.P6 order.

This petition is dismissed with liberty to petitioner to challenge the final decree in appeal.

M.SASIDHARAN NAMBIAR,JUDGE

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